CONFIDENTIAL

WEEKLY HOT ISSUES REPORT for RA/DRA Region 8

Week ending March 9, 2018

OFFICE OF ECOSYSTEMS PROTECTION AND REMEDIATION

HOT ISSUES AND IMPORTANT DEADLINES

Butte West Side Soils Operable Unit and Flats Neighborhood FOIA Request

Key Message: On December 18, 2017, David C. McCumber of the Montana Standard (Lee Enterprises) requested information used in making the determination that the Flat neighborhood of Butte, Montana does not need to be a part of the West Side Soils Operable Unit, or any other operable unit.

- An interim response was sent on March 6, 2018, that released 37 documents. These documents were reviewed by the EPA prior to the recent Butte Silver Bow County Commissioners meeting in which the West Side Soils operable unit boundaries, described in the 2006 Butte Priority Soils operable unit Record of Decision, and were discussed.
- The requester has also been informed there is publicly available information regarding Silver Bow in FOIAonline as there have been several FOIA requests about Silver Bow/Butte since March 2015.
- As there are over 850 additional documents that need review, the requester agreed to an extension of time for this response until May 4, 2018.
- Contact: Dayle Aldinger 312-6911; Henry Elsen 406-457-5030

Court Denies Sunnyside Gold Corporation's Challenge to EPA's Decision to add the Bonita Peak Mining District to the National Priorities List

Key Message: Sunnyside Gold Corporation's (Sunnyside) petition for review of the decision to add the Bonita Peak Mining District (the Site) to the National Priorities List (NPL) was denied by the United States Court of Appeals for the District of Columbia Circuit Court on March 6, 2016. Thus, the Site will remain on the NPL.

- The court has affirmed that the EPA correctly applied the Hazard Ranking System (HRS) when defining the site as a comingled release of hazardous substances from the abandoned mines (sources) located throughout the watershed. The Court's decision validates EPA's approach which will support us in any future mining sites that may be added to the National Priorities List.
- The court indicated that Sunnyside's real concern was related to their potential liability at the site and noted that EPA's decision to add the Site to the NPL does not assign liability.
- Contact: Victor Ketellapper, 312-6578; Robert Parker, 312-6664

OFFICE OF ENFORCEMENT, COMPLIANCE AND ENVIRONMENTAL JUSTICE

HOT ISSUES AND IMPORTANT DEADLINES

Air Enforcement Program Issues Notice of Violation to Enforcement/Investigatory / Ex. 7(a)

Enforcement/Investigatory / Ex. 7(a)

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Enforcement/Investigatory / Ex. 7(a)

- Contacts: Technical: Joe Wilwerding, 312-6729; Legal: Abigail Dean, 312-6106

Air Enforcement Program Issues Notice of Violation to Enforcement/Investigatory / Ex. 7(a)

Enforcement/Investigatory / Ex. 7(a)

- Contacts: Technical: Laurie Ostrand, 312-6437; Legal: Abigail Dean, 312-6106

OFFICE OF PARTNERSHIPS AND REGULATORY ASSISTANCE

HOT ISSUES AND IMPORTANT DEADLINES

The Tribal Assistance Program sent a letter to President Weston of the Oglala Sioux Tribe (OST) requesting the submittal of the fourth quarter FY17 Brownfields report by March 9, 2018
Key Message: The OST have several delinquent Brownfield grant reports for FY17. Dale Roy, the Tribal Program Manager working with the OST, has contacted Suzy Mesteth, the OST Environmental Director, and Cherise Mesteth, Brownfields Coordinator, numerous times related to the current delinquent report.

- The current report is two months overdue.
- And as a result, a letter was sent to the Chairman Weston to ensure that the report is submitted.
- Contact: Callie Videtich, 312-6434

OFFICE OF TECHNICAL AND MANAGEMENT SERVICES
No report

OFFICE OF WATER PROTECTION

HOT ISSUES AND IMPORTANT DEADLINES

Update: EPA Oversight Report on the North Dakota Industrial Commission's (NDIC) UIC Class II Program
Key Message: In a March 6, 2018 call with the UIC Program, the NDIC agreed to prepare a written response to EPA detailing how it has, or will, address each of the required and recommended actions in the final report.

- In 2015, EPA Region 8's UIC program conducted a comprehensive office and field-based review of the NDIC's implementation of its UIC Class II injection well program.
- Following discussion with NDIC of the Region's draft findings and subsequent review of NDIC's written comments on the draft, the Region finalized its report in December 2017.
- The final report documented both implementation strengths (e.g., field inspection program) and deficiencies including: 1) incomplete file records and lack of unrestricted access to records; 2) lack

of pertinent information within injection well permits (e.g., absence of maximum allowable injection pressures); 3) absence of written standard operating procedures and guidelines for various program activities; and 4) failure to appropriately report all violations.

- During the call, which included Lynn Helms, Director of NDIC, the state agreed to address all of the findings in its written response.
- Contact: Douglas Minter, 312-6079

Update: Region 8 Wetlands Program Development Grants (WPDG) Request for Proposals (RFP) to be Submitted to HQ for Approval and Publication

Key Message: The FY18/FY19 Regional WPDG RFP, which includes Regional priorities, will be published in April. The process to publish includes review and submittal of the Regional RFP from Regional Management (Darcy O'Connor) to John Konkus at OPA.

- Wetland Program Development Grants (WPDGs) assist state, tribal and local government agencies and interstate/intertribal entities in developing or refining state/tribal/local programs which protect, manage, and restore wetlands.
- Each Region is to publish a Regional RFP that includes Regional wetland priorities. Region 8's Regional Priorities are: 1) Activities and/or products that lead to documented action toward wetlands protection by local land use decision making officials and 2) Use of wetlands monitoring and assessment data collected through prior or current WPDGs for the benefit of planning or protective actions.
- The total amount of federal funding available will be approximately $2.6M (FY18 and FY19 total) and the Region anticipates awarding grants in the range of $25K to $250K.
- Contact: Rebecca Russo, 312-6757; Cynthia Gonzales, 312-6569

British Columbia approved Teck Coal's request to Bypass Water Treatment of Coal Mining Discharges Impacting US Waters

Key Message: Despite concerns raised by EPA's Office of International and Tribal Affairs and the state of Montana, BC Ministry of Environment and Climate Change Strategies approved Teck's proposed release of untreated mine discharge during March-December 2018.

- The bypass approval did not include effects monitoring requested by Montana and EPA. However, BC has indicated that they will consider input from EPA and Montana DEQ regarding monitoring of US waters that should be required to be supported by Teck as part of their permit-required monitoring. This is the first time that BC has indicated a willingness to require Teck to monitor pollution from their mines that reaches US waters.
- That input is due to BC by the end of March. OWP will coordinate with Montana DEQ as input is developed.
- Teck is also updating their water quality management implementation plan, which specifies mitigation, construction of additional water treatment plants and source control actions they are required to take to reduce selenium and nitrate loading in the Elk River and transboundary Lake Koocanusa. EPA and Montana will have the opportunity to provide input into the draft revised implementation plan.
- Contact: Ayn Schmit, 312-6220

Region 8 Preparing to Take Action on Utah's 2016 303(d) List

Deliberative Process / Ex. 5

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- Deliberative Process / Ex. 5
- Contacts: Sandra Spence, 312-6947; Shera Reems, 312-6888